

State of Hawaii  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of Forestry and Wildlife  
Honolulu, Hawaii 96813

March 24, 2006

Chairperson and Members  
Board of Land and  
Natural Resources  
State of Hawaii  
Honolulu, Hawaii

Land Board Members:

SUBJECT: REQUEST APPROVAL OF CONTRACT WITH MS. DENISE LAITINEN  
TO COORDINATE THE FEDERALLY FUNDED ASSISTANCE  
FUNCTION OF THE HAWAII FIREWISE PROGRAM FOR THE  
DIVISION OF FORESTRY AND WILDLIFE

**BACKGROUND**

In 2002, the DLNR Division of Forestry and Wildlife established the Hawaii Firewise Program, a program intended to assist local groups and communities to be knowledgeable and prepared for wildfires. Small federal grants were awarded to aid communities such as Hamakua and west Hawaii communities on the Big Island, Kahikinui and Kihei on Maui, Waianae and Makakilo on Oahu, and Koke'e and Anahola on Kauai. These communities have served as the stepping stones in helping spread the word on Firewise.

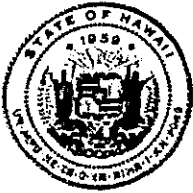
In November 2004, DOFAW contracted a Firewise Coordinator for one year. This person conducted firewise workshops and completed public outreach statewide. The coordinator also provided other services as needed to those communities at risk from wildfires, who sought additional information on wildfire protection.

After the contract expired, an assessment was made to determine the success of the outreach program. It was deemed very successful as many communities continue to ask for assistance to this day. As the state's leading agency in wildfire management, we feel that educating communities on how to protect themselves from wildfires will benefit the state and counties socially and economically.

**CONTRACT SERVICES:**

DOFAW followed the "Request for Proposals" procurement procedures by placing the RFP on the State Procurement Notice website from November 22 through December 23, 2005. One proposal was submitted and accepted. A scoring criterion was established based on

ITEM C-1



**STATE OF HAWAII**  
**CONTRACT FOR GOODS OR SERVICES**  
**BASED UPON**  
**COMPETITIVE SEALED PROPOSALS**

This Contract, executed on the respective dates indicated below, is effective as of \_\_\_\_\_, \_\_\_\_\_, between \_\_\_\_\_ Board of Land and Natural Resources  
(Insert name of state department, agency, board or commission)  
 State of Hawaii ("STATE"), by its \_\_\_\_\_ Chairperson  
(Insert title of person signing for State)  
 (hereafter also referred to as the HEAD OF THE PURCHASING AGENCY or designee ("HOPA")), whose address is 1151 Punchbowl St., Honolulu, HI 96813  
 \_\_\_\_\_ and Ms. Denise Laitinen  
 ("CONTRACTOR"), a \_\_\_\_\_ Sole Proprietorship  
(Insert corporation, partnership, joint venture, sole proprietorship, or other legal form of the Contractor)  
 under the laws of the State of \_\_\_\_\_ Hawaii \_\_\_\_\_, whose business address and federal and state taxpayer identification numbers are as follows: P.O. Box 7517 Hilo, HI 96720  
 Tax I.D. #20097013

**RECITALS**

A. The STATE desires to retain and engage the CONTRACTOR to provide the goods or services, or both, described in this Contract and its attachments, and the CONTRACTOR is agreeable to providing said goods or services or both.

B. The STATE has issued a request for competitive sealed proposals, and has received and reviewed proposals submitted in response to the request.

C. The solicitation for proposals and the selection of the CONTRACTOR were made in accordance with section 103D-303, Hawaii Revised Statutes ("HRS"), Hawaii Administrative Rules, Title 3, Department of Accounting and General Services, Subtitle 11 ("HAR"), Chapter 122, Subchapter 6, and applicable procedures established by the appropriate Chief Procurement Officer ("CPO").

D. The CONTRACTOR has been identified as the responsible and responsive offeror whose proposal is the most advantageous for the STATE, taking into consideration price and the evaluation factors set forth in the request.

E. Pursuant to \_\_\_\_\_ Cooperative Forestry Assistance Program \_\_\_\_\_, the STATE  
(Legal authority to enter into this Contract)  
 is authorized to enter into this Contract.

F. Money is available to fund this Contract pursuant to:

- (1) \_\_\_\_\_  
(Identify state sources)  
 or (2) Cooperative Forestry Assistance Program, State Fire Assistance Grant  
(Identify federal sources)  
 or both, in the following amounts: State \$ \_\_\_\_\_  
 Federal \$ \_\_\_\_\_ 40,000.00

NOW, THEREFORE, in consideration of the promises contained in this Contract, the STATE and the CONTRACTOR agree as follows:

1. Scope of Services. The CONTRACTOR shall, in a proper and satisfactory manner as determined by the STATE, provide all the goods or services, or both, set forth in the request for competitive sealed proposals number FW-06-001 ("RFP") and the CONTRACTOR'S accepted proposal ("Proposal"), both of which, even if not physically attached to this Contract, are made a part of this Contract.

2. Compensation. The CONTRACTOR shall be compensated for goods supplied



STATE OF HAWAII

CONTRACTOR'S ACKNOWLEDGMENT

STATE OF Hawaii )  
 ) SS.  
COUNTY OF Hawaii )

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ before me appeared  
Denise Laitinen and \_\_\_\_\_, to me  
known, to be the person(s) described in and, who, being by me duly sworn, did say that he/she/they is/are  
Sole Proprietor and \_\_\_\_\_ of  
Denise Laitinen, the  
CONTRACTOR named in the foregoing instrument, and that he/she/they is/are authorized to sign said  
instrument on behalf of the CONTRACTOR, and acknowledges that he/she/they executed said instrument  
as the free act and deed of the CONTRACTOR.

(Notary Seal)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

Notary Public, State of \_\_\_\_\_

My commission expires: \_\_\_\_\_

\* Reminder to Agency: If the "is" block is checked and if the Contract involves goods or services of a value in excess of \$10,000, the Contract must be awarded by competitive sealed bidding under section 103D-302, HRS, or a competitive sealed proposal under section 103D-303, HRS. Otherwise, the Agency may not award the Contract unless it posts a notice of its intent to award it and files a copy of the notice with the State Ethics Commission. (Section 84-15(a), HRS).



**STATE OF HAWAII**  
**SCOPE OF SERVICES**

- (b) The CONTRACTOR shall not take advantage of any apparent error or omission in the information furnished by the STATE. In the event that the CONTRACTOR discovers such an error or omission, the Division shall immediately be notified in writing of such error or omission. The Division will then make such corrections and interpretations as may be deemed necessary for performing the work under this contract.
- (c) Additional work required of the CONTRACTOR because of the aforementioned errors or discrepancies, or omissions in the assessment of the CONTRACTOR, excluding those errors and discrepancies found in the information furnished by the STATE to the CONTRACTOR, shall be performed at no further cost to the STATE.



## STATE OF HAWAII

# TIME OF PERFORMANCE

- 3.1 Time of Completion and Extension Thereof – The time of completion of the contract shall be six (6) months, exclusive of the STATE'S review time. Time is considered to be of the essence, and the CONTRACTOR shall prosecute the work with due efficiency and diligence to complete the work within the specified time. The CONTRACTOR is approved to begin work on April 15, 2006. Any delay in the progress of the work may adversely affect the completion of the work under this contract within the required time shall be promptly reported in writing to the Division. If the CONTRACTOR'S work is delayed by conditions beyond its control, the CONTRACTOR shall, subject to the written approval of the Division, be entitled to a reasonable extension of time to complete its work. In addition to the above, the Division may, in its discretion, upon the written request of the CONTRACTOR, extend by written notice to the CONTRACTOR the completion date of the contract.
- 3.2 SUBMISSIONS AND REVIEWS – All work of the CONTRACTOR shall be subject to the approval of the Division. The CONTRACTOR shall submit reports of accomplishments to the Division for review at the thirtieth (30<sup>th</sup>) of each month. The reports shall include: number of communities, groups and/or individuals assisted, type of assistance rendered, number of meetings attended, etc. In addition to the submissions listed below, the CONTRACTOR shall hold progress meetings with the Division at approximately four-week intervals; or at more frequent intervals upon the request of the parties hereto.
- (a) Products to be delivered:
- Maintain a Firewise Directory for communities, groups, individuals, etc. who want to implement firewise techniques or want to engage in firewise projects in their communities.
- (b) Promote the concept of Firewise. Periodically publish articles in local newspapers and be available for radio and television interviews on an as needed basis.
- 3.3 CONSULTATION – After acceptance of the final work, the CONTRACTOR shall be available for consultation on this program at no extra cost to the STATE for a period of one (1) year after completion of the work that is identified in Attachment S1, section 1.2 "Scope of Work." After the one-year period, the CONTRACTOR shall be compensated for subsequent consultation at the rate provided in Attachment S2.



## STATE OF HAWAII

# SPECIAL CONDITIONS

The following special conditions shall apply to this agreement:

1. **PUBLICITY:** It is expressly understood and agreed to by the STATE that General Condition No. 25 dealing with Publicity shall not be applicable to acknowledgement of the STATE'S participation and funding of the project in any of the CONTRACTOR'S reports, brochures, advertisements or other information released to the media or public nor shall it prohibit the CONTRACTOR from providing information on the STATE'S activities associated with the Program. The CONTRACTOR shall refer all inquiries about STATE policy or administration of the Program to the DIRECTOR.

## GENERAL CONDITIONS

1. Coordination of Services by the STATE. The head of the purchasing agency ("HOPA") (which term includes the designee of the HOPA) shall coordinate the services to be provided by the CONTRACTOR in order to complete the performance required in the Contract. The CONTRACTOR shall maintain communications with HOPA at all stages of the CONTRACTOR'S work, and submit to HOPA for resolution any questions which may arise as to the performance of this Contract. "Purchasing agency" as used in these General Conditions means and includes any governmental body which is authorized under chapter 103D, HRS, or its implementing rules and procedures, or by way of delegation, to enter into contracts for the procurement of goods or services or both.
2. Relationship of Parties: Independent Contractor Status and Responsibilities, Including Tax Responsibilities.
  - a. In the performance of services required under this Contract, the CONTRACTOR is an "independent contractor," with the authority and responsibility to control and direct the performance and details of the work and services required under this Contract; however, the STATE shall have a general right to inspect work in progress to determine whether, in the STATE'S opinion, the services are being performed by the CONTRACTOR in compliance with this Contract. Unless otherwise provided by special condition, it is understood that the STATE does not agree to use the CONTRACTOR exclusively, and that the CONTRACTOR is free to contract to provide services to other individuals or entities while under contract with the STATE.
  - b. The CONTRACTOR and the CONTRACTOR'S employees and agents are not by reason of this Contract, agents or employees of the State for any purpose, and the CONTRACTOR and the CONTRACTOR'S employees and agents shall not be entitled to claim or receive from the State any vacation, sick leave, retirement, workers' compensation, unemployment insurance, or other benefits provided to state employees.
  - c. The CONTRACTOR shall be responsible for the accuracy, completeness, and adequacy of the CONTRACTOR'S performance under this Contract. Furthermore, the CONTRACTOR intentionally, voluntarily, and knowingly assumes the sole and entire liability to the CONTRACTOR'S employees and agents, and to any individual not a party to this Contract, for all loss, damage, or injury caused by the CONTRACTOR, or the CONTRACTOR'S employees or agents in the course of their employment.
  - d. The CONTRACTOR shall be responsible for payment of all applicable federal, state, and county taxes and fees which may become due and owing by the CONTRACTOR by reason of this Contract, including but not limited to (i) income taxes, (ii) employment related fees, assessments, and taxes, and (iii) general excise taxes. The CONTRACTOR also is responsible for obtaining all licenses, permits, and certificates that may be required in order to perform this Contract.
  - e. The CONTRACTOR shall obtain a general excise tax license from the Department of Taxation, State of Hawaii, in accordance with section 237-9, HRS, and shall comply with all requirements thereof. The CONTRACTOR shall obtain a tax clearance certificate from the Director of Taxation, State of Hawaii, showing that all delinquent taxes, if any, levied or accrued under state law against the CONTRACTOR have been paid and submit the same to the STATE prior to commencing any performance under this Contract. The CONTRACTOR shall also be solely responsible for meeting all requirements necessary to obtain the tax clearance certificate required for final payment under sections 103-53 and 103D-328, HRS, and paragraph 17 of these General Conditions.
  - f. The CONTRACTOR is responsible for securing all employee-related insurance coverage for the CONTRACTOR and the CONTRACTOR'S employees and agents that is or may be required by law, and for payment of all premiums, costs, and other liabilities associated with securing the insurance coverage.

of the State, the assignment contracts and the novation and change of name amendments herein authorized shall be processed only through the CPO's office.

7. Indemnification and Defense. The CONTRACTOR shall defend, indemnify, and hold harmless the State of Hawaii, the contracting agency, and their officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys' fees, and all claims, suits, and demands therefore, arising out of or resulting from the acts or omissions of the CONTRACTOR or the CONTRACTOR'S employees, officers, agents, or subcontractors under this Contract. The provisions of this paragraph shall remain in full force and effect notwithstanding the expiration or early termination of this Contract.
8. Cost of Litigation. In case the STATE shall, without any fault on its part, be made a party to any litigation commenced by or against the CONTRACTOR in connection with this Contract, the CONTRACTOR shall pay all costs and expenses incurred by or imposed on the STATE, including attorneys' fees.
9. Liquidated Damages. When the CONTRACTOR is given notice of delay or nonperformance as specified in paragraph 13 (Termination for Default) and fails to cure in the time specified, it is agreed the CONTRACTOR shall pay to the STATE the amount, if any, set forth in this Contract per calendar day from the date set for cure until either (i) the STATE reasonably obtains similar goods or services, or both, if the CONTRACTOR is terminated for default, or (ii) until the CONTRACTOR provides the goods or services, or both, if the CONTRACTOR is not terminated for default. To the extent that the CONTRACTOR'S delay or nonperformance is excused under paragraph 13d (Excuse for Nonperformance or Delay Performance), liquidated damages shall not be assessable against the CONTRACTOR. The CONTRACTOR remains liable for damages caused other than by delay.
10. STATE'S Right of Offset. The STATE may offset against any monies or other obligations the STATE owes to the CONTRACTOR under this Contract, any amounts owed to the State of Hawaii by the CONTRACTOR under this Contract or any other contracts, or pursuant to any law or other obligation owed to the State of Hawaii by the CONTRACTOR, including, without limitation, the payment of any taxes or levies of any kind or nature. The STATE will notify the CONTRACTOR in writing of any offset and the nature of such offset. For purposes of this paragraph, amounts owed to the State of Hawaii shall not include debts or obligations which have been liquidated, agreed to by the CONTRACTOR, and are covered by an installment payment or other settlement plan approved by the State of Hawaii, provided, however, that the CONTRACTOR shall be entitled to such exclusion only to the extent that the CONTRACTOR is current with, and not delinquent on, any payments or obligations owed to the State of Hawaii under such payment or other settlement plan.
11. Disputes. Disputes shall be resolved in accordance with section 103D-703, HRS, and chapter 3-126, Hawaii Administrative Rules ("HAR"), as the same may be amended from time to time.
12. Suspension of Contract. The STATE reserves the right at any time and for any reason to suspend this Contract for any reasonable period, upon written notice to the CONTRACTOR in accordance with the provisions herein.
  - a. Order to stop performance. The Agency procurement officer may, by written order to the CONTRACTOR, at any time, and without notice to any surety, require the CONTRACTOR to stop all or any part of the performance called for by this Contract. This order shall be for a specified period not exceeding sixty (60) days after the order is delivered to the CONTRACTOR, unless the parties agree to any further period. Any such order shall be identified specifically as a stop performance order issued pursuant to this section. Stop performance orders shall include, as appropriate: (1) A clear description of the work to be suspended; (2) Instructions as to the issuance of further orders by the CONTRACTOR for material or services; (3) Guidance as to action to be taken on subcontracts; and (4) Other instructions and suggestions to the CONTRACTOR for minimizing costs. Upon receipt of such an order, the CONTRACTOR shall forthwith comply with its terms and suspend all performance under this Contract at the time stated, provided, however, the CONTRACTOR shall take all reasonable steps to minimize the occurrence of costs allocable to the performance covered by the order during the period of performance stoppage. Before the stop performance order expires, or within any further period to which the parties shall have agreed, the Agency procurement officer shall either:
    - (1) Cancel the stop performance order; or

capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, the CONTRACTOR shall not be deemed to be in default, unless the goods and services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit the CONTRACTOR to meet the requirements of the Contract. Upon request of the CONTRACTOR, the Agency procurement officer shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, the CONTRACTOR'S progress and performance would have met the terms of the Contract, the delivery schedule shall be revised accordingly, subject to the rights of the STATE under this Contract. As used in this paragraph, the term "subcontractor" means subcontractor at any tier.

- e. Erroneous termination for default. If, after notice of termination of the CONTRACTOR'S right to proceed under this paragraph, it is determined for any reason that the CONTRACTOR was not in default under this paragraph, or that the delay was excusable under the provisions of subparagraph 13d, "Excuse for nonperformance or delayed performance," the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to paragraph 14.
- f. Additional rights and remedies. The rights and remedies provided in this paragraph are in addition to any other rights and remedies provided by law or under this Contract.

14. Termination for Convenience.

- a. Termination. The Agency procurement officer may, when the interests of the STATE so require, terminate this Contract in whole or in part, for the convenience of the STATE. The Agency procurement officer shall give written notice of the termination to the CONTRACTOR specifying the part of the Contract terminated and when termination becomes effective.
- b. CONTRACTOR'S obligations. The CONTRACTOR shall incur no further obligations in connection with the terminated performance and on the date(s) set in the notice of termination the CONTRACTOR will stop performance to the extent specified. The CONTRACTOR shall also terminate outstanding orders and subcontracts as they relate to the terminated performance. The CONTRACTOR shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated performance subject to the STATE'S approval. The Agency procurement officer may direct the CONTRACTOR to assign the CONTRACTOR'S right, title, and interest under terminated orders or subcontracts to the STATE. The CONTRACTOR must still complete the performance not terminated by the notice of termination and may incur obligations as necessary to do so.
- c. Right to goods and work product. The Agency procurement officer may require the CONTRACTOR to transfer title and deliver to the STATE in the manner and to the extent directed by the Agency procurement officer:
  - (1) Any completed goods or work product; and
  - (2) The partially completed goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as the CONTRACTOR has specifically produced or specially acquired for the performance of the terminated part of this Contract.

The CONTRACTOR shall, upon direction of the Agency procurement officer, protect and preserve property in the possession of the CONTRACTOR in which the STATE has an interest. If the Agency procurement officer does not exercise this right, the CONTRACTOR shall use best efforts to sell such goods and manufacturing materials. Use of this paragraph in no way implies that the STATE has breached the Contract by exercise of the termination for convenience provision.

- d. Compensation.

- (1) Written notice required. The CONTRACTOR shall give written notice to the Agency procurement officer:
    - (A) Prior to the commencement of the performance involved, if at that time the CONTRACTOR knows of the occurrence of such action or omission;
    - (B) Within thirty (30) days after the CONTRACTOR knows of the occurrence of such action or omission, if the CONTRACTOR did not have such knowledge prior to the commencement of the performance; or
    - (C) Within such further time as may be allowed by the Agency procurement officer in writing.
  - (2) Notice content. This notice shall state that the CONTRACTOR regards the act or omission as a reason which may entitle the CONTRACTOR to additional compensation, damages, or an extension of time. The Agency procurement officer, upon receipt of such notice, may rescind such action, remedy such omission, or take such other steps as may be deemed advisable in the discretion of the Agency procurement officer;
  - (3) Basis must be explained. The notice required by subparagraph 15a(1) describes as clearly as practicable at the time the reasons why the CONTRACTOR believes that additional compensation, damages, or an extension of time may be remedies to which the CONTRACTOR is entitled; and
  - (4) Claim must be justified. The CONTRACTOR must maintain and, upon request, make available to the Agency procurement officer within a reasonable time, detailed records to the extent practicable, and other documentation and evidence satisfactory to the STATE, justifying the claimed additional costs or an extension of time in connection with such changes.
- b. CONTRACTOR not excused. Nothing herein contained, however, shall excuse the CONTRACTOR from compliance with any rules or laws precluding any state officers and CONTRACTOR from acting in collusion or bad faith in issuing or performing change orders which are clearly not within the scope of the Contract.
  - c. Price adjustment. Any adjustment in the price made pursuant to this paragraph shall be determined in accordance with the price adjustment provision of this Contract.
16. Costs and Expenses. Any reimbursement due the CONTRACTOR for per diem and transportation expenses under this Contract shall be subject to chapter 3-123 (Cost Principles), HAR, and the following guidelines:
- a. Reimbursement for air transportation shall be for actual cost or coach class air fare, whichever is less.
  - b. Reimbursement for ground transportation costs shall not exceed the actual cost of renting an intermediate-sized vehicle.
  - c. Unless prior written approval of the HOPA is obtained, reimbursement for subsistence allowance (i.e., hotel and meals, etc.) shall not exceed the applicable daily authorized rates for inter-island or out-of-state travel that are set forth in the current Governor's Executive Order authorizing adjustments in salaries and benefits for state officers and employees in the executive branch who are excluded from collective bargaining coverage.
17. Payment Procedures; Final Payment; Tax Clearance.
- a. Original invoices required. All payments under this Contract shall be made only upon submission by the CONTRACTOR of original invoices specifying the amount due and certifying that services requested under the Contract have been performed by the CONTRACTOR according to the Contract.

- g. CPO approval. If this is a professional services contract awarded pursuant to section 103D-303 or 103D-304, HRS, any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract which increases the amount payable to the CONTRACTOR by at least \$25,000.00 or ten per cent (10%) of the initial contract price, whichever increase is higher, must receive the prior approval of the CPO.
  - h. Tax clearance. The STATE may, at its discretion, require the CONTRACTOR to submit to the STATE, prior to the STATE'S approval of any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract, a tax clearance from the Director of Taxation, State of Hawaii, showing that all delinquent taxes, if any, levied or accrued under state law against the CONTRACTOR have been paid.
  - i. Sole source contracts. Amendments to sole source contracts that would change the original scope of the Contract may only be made with the approval of the CPO. Annual renewal of a sole source contract for services should not be submitted as an amendment.
20. Change Order. The Agency procurement officer may, by a written order signed only by the STATE, at any time, and without notice to any surety, and subject to all appropriate adjustments, make changes within the general scope of this Contract in any one or more of the following:
- (1) Drawings, designs, or specifications, if the goods or services to be furnished are to be specially provided to the STATE in accordance therewith;
  - (2) Method of delivery; or
  - (3) Place of delivery.
- a. Adjustments of price or time for performance. If any change order increases or decreases the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this Contract, whether or not changed by the order, an adjustment shall be made and the Contract modified in writing accordingly. Any adjustment in the Contract price made pursuant to this provision shall be determined in accordance with the price adjustment provision of this Contract. Failure of the parties to agree to an adjustment shall not excuse the CONTRACTOR from proceeding with the Contract as changed, provided that the Agency procurement officer promptly and duly makes the provisional adjustments in payment or time for performance as may be reasonable. By proceeding with the work, the CONTRACTOR shall not be deemed to have prejudiced any claim for additional compensation, or any extension of time for completion.
  - b. Time period for claim. Within ten (10) days after receipt of a written change order under subparagraph 20a, unless the period is extended by the Agency procurement officer in writing, the CONTRACTOR shall respond with a claim for an adjustment. The requirement for a timely written response by CONTRACTOR cannot be waived and shall be a condition precedent to the assertion of a claim.
  - c. Claim barred after final payment. No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if a written response is not given prior to final payment under this Contract.
  - d. Other claims not barred. In the absence of a change order, nothing in this paragraph 20 shall be deemed to restrict the CONTRACTOR'S right to pursue a claim under the Contract or for breach of contract.
21. Price Adjustment.
- a. Price adjustment. Any adjustment in the contract price pursuant to a provision in this Contract shall be made in one or more of the following ways:
    - (1) By agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
    - (2) By unit prices specified in the Contract or subsequently agreed upon;

Contract, shall not be increased or considered to be increased except by specific written modification of the Contract indicating the new contract estimated cost and, if this contract is incrementally funded, the new amount allotted to the contract.

24. Confidentiality of Material.

- a. All material given to or made available to the CONTRACTOR by virtue of this Contract, which is identified as proprietary or confidential information, will be safeguarded by the CONTRACTOR and shall not be disclosed to any individual or organization without the prior written approval of the STATE.
- b. All information, data, or other material provided by the CONTRACTOR to the STATE shall be subject to the Uniform Information Practices Act, chapter 92F, HRS.

25. Publicity. The CONTRACTOR shall not refer to the STATE, or any office, agency, or officer thereof, or any state employee, including the HOPA, the CPO, the Agency procurement officer, or to the services or goods, or both, provided under this Contract, in any of the CONTRACTOR'S brochures, advertisements, or other publicity of the CONTRACTOR. All media contacts with the CONTRACTOR about the subject matter of this Contract shall be referred to the Agency procurement officer.

26. Ownership Rights and Copyright. The STATE shall have complete ownership of all material, both finished and unfinished, which is developed, prepared, assembled, or conceived by the CONTRACTOR pursuant to this Contract, and all such material shall be considered "works made for hire." All such material shall be delivered to the STATE upon expiration or termination of this Contract. The STATE, in its sole discretion, shall have the exclusive right to copyright any product, concept, or material developed, prepared, assembled, or conceived by the CONTRACTOR pursuant to this Contract.

27. Liens and Warranties. Goods provided under this Contract shall be provided free of all liens and provided together with all applicable warranties, or with the warranties described in the Contract documents, whichever are greater.

28. Audit of Books and Records of the CONTRACTOR. The STATE may, at reasonable times and places, audit the books and records of the CONTRACTOR, prospective contractor, subcontractor, or prospective subcontractor which are related to:

- a. The cost or pricing data, and
- b. A state contract, including subcontracts, other than a firm fixed-price contract.

29. Cost or Pricing Data. Cost or pricing data must be submitted to the Agency procurement officer and timely certified as accurate for contracts over \$100,000 unless the contract is for a multiple-term or as otherwise specified by the Agency procurement officer. Unless otherwise required by the Agency procurement officer, cost or pricing data submission is not required for contracts awarded pursuant to competitive sealed bid procedures.

If certified cost or pricing data are subsequently found to have been inaccurate, incomplete, or noncurrent as of the date stated in the certificate, the STATE is entitled to an adjustment of the contract price, including profit or fee, to exclude any significant sum by which the price, including profit or fee, was increased because of the defective data. It is presumed that overstated cost or pricing data increased the contract price in the amount of the defect plus related overhead and profit or fee. Therefore, unless there is a clear indication that the defective data was not used or relied upon, the price will be reduced in such amount.

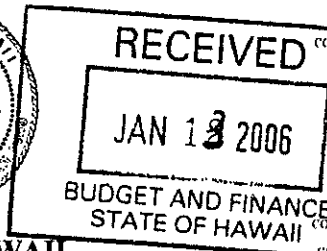
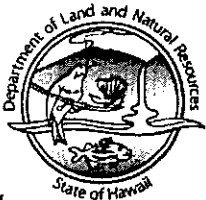
30. Audit of Cost or Pricing Data. When cost or pricing principles are applicable, the STATE may require an audit of cost or pricing data.

31. Records Retention. The CONTRACTOR and any subcontractors shall maintain the books and records that relate to the Contract and any cost or pricing data for three (3) years from the date of final payment under the Contract.

32. Antitrust Claims. The STATE and the CONTRACTOR recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the purchaser. Therefore, the CONTRACTOR

57226

LINDA LINGLE  
GOVERNOR OF HAWAII



PETER T. YOUNG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA  
DEPUTY DIRECTOR

DEAN NAKANO  
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAIKOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

JAN 11 2005

B&F 8719

S. 1/23/06

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MEMORANDUM

TO: THE HONORABLE LINDA LINGLE  
Governor of Hawaii

THRU: HONORABLE GEORGINA KAWAMURA  
Director of Finance Department of Budget and Finance

FROM: *[Signature]*  
PETER YOUNG, Chairperson  
Board of Land and Natural Resources

SUBJECT: Request for Approval of Consultant Services, Pursuant to Executive Memo No. 98-04 for the Federally Funded State Fire Assistance Program.

A. Type of Services.

Consultant services to achieve objectives of the federally funded State Fire Assistance Program (SFA).

B. Purpose of Requiring Services.

The federal SFA grant provides federal funds to the Department of Land and Natural Resources to implement the fire management program of the Division of Forestry and Wildlife (DOFAW). This program includes fire prevention information and education, suppression (training and operations), and suppression activities. The Hawaii Firewise Program provides training, education, and other outreach services to communities at risk from wildfires as well as civic groups, organizations, and individuals.

C. Nature and Description of Service to be Provided.

The consultant is to provide the following:

- 1) Primary administrative support and leadership in overseeing that all goals and objectives of the Hawaii Firewise Program are met;
- 2) Conduct Firewise workshops statewide. This includes planning, preparation, and providing all materials.

Please call Wayne F. Ching, State Protection Forester, at the DOFAW at 587-4173 if you have questions or concerns regarding the Hawaii Firewise Program described herein.

**RECOMMEND:**

☒ APPROVAL

☐ DISAPPROVAL

  
\_\_\_\_\_  
DIRECTOR OF FINANCE

2/14/06  
DATE

☒ APPROVAL

☐ DISAPPROVAL

  
\_\_\_\_\_  
LINDA LINGLE  
Governor, State of Hawaii

2/20/06  
DATE